

Please charge the required petition fee to Deposit Account No. 02-1445.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 02-1445.

R E M A R K S

Applicants respectfully traverse the requirement for restriction and requests its withdrawal by the Examiner. Applicants submit that the Examiner has not demonstrated that searching the entire invention as claimed would constitute an undue burden.

Furthermore, Applicants traverse the requirement for election of species if this means that additional compounds will not be searched at some point in the prosecution of the patent. Clarification of the Examiner's position is requested.

It is submitted that searching the inventions of both Groups I and II would not constitute an undue burden because the active ingredient in the shaped article of Group II are the compounds of Group I. Since the same compound must be searched whichever invention is selected, the search must overlap. Thus searching


the entire invention would not constitute an undue burden.

On the other hand, the filing of many patent applications is an undue burden to Applicants, especially if the Examiner uses the requirement of an election of species as a restriction requirement. First, the Applicant will be forced to prosecute and maintain many patent applications. Second, in view of GATT, Applicants could lose a substantial portion of their period of exclusivity. As Applicants do not know how the Examiner will use the requirement for an election of species, it is impossible to mitigate the loss of the period of exclusivity by immediately filing divisional applications.

Accordingly, reconsideration and withdrawal of the restriction requirement is respectfully requested.

Respectfully submitted,

SPRUNG HORN KRAMER & WOODS

By 
Mark W. Russell
Reg. No. 37,514

MWR:cg
B9265.RES

660 White Plains Road
Tarrytown, NY 10591-5144
(914) 332-1700